



AMES E. MCGREEVEY
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey Cemetery Board
124 Halsey Street, 6th Floor, Newark, NJ 07102



PETER C. HARVEY
Attorney General

RENI ERDOS
Director

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P.O. Box 45036
Newark, NJ 07101
(973) 504-6553

"CERTIFIED TRUE COPY"

November 9, 2004

By Certified and Regular Mail

R. Bruce Phillips, President
Holmdel Cemetery
34 Crawfords Corner Road
Holmdel, New Jersey 07733

Re: Second Offer of Settlement In Lieu of Filing a
Formal Disciplinary Complaint

Dear Mr. Phillips:

This letter is to advise you that the New Jersey Cemetery Board (hereinafter "the Board") has had an opportunity to review information concerning at least seventy-five (75) temporary entombments of decedents awaiting permanent entombment in the planned Chapel Mausoleum and Hillside Crypts at Holmdel Cemetery, for periods in excess of four years. In addition, the Board has reviewed information concerning misrepresentations to consumers by salespersons working on behalf of Holmdel Cemetery and acting as its agents with regard to the time that would be required for completion of the planned Chapel Mausoleum and Hillside Crypts. Finally, the Board has reviewed information concerning the failure of Holmdel Cemetery to provide to investigators an accurate copy of the reverse side of all consumer contracts used, claiming instead that the one copy provided of the reverse side was identical to all others.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that Holmdel Cemetery: has violated N.J.A.C. 13:44J-8.4(b) in that it temporarily stored human remains prior to final entombment or interment for more than four years; has violated N.J.S.A. 45:1-21(b) by misrepresenting the time that would be required for completion of the planned Chapel Mausoleum and Hillside Crypts; and has violated N.J.A.C. 13:45C-1.3(a)2 by providing an incomplete set of documents to investigators.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against Holmdel Cemetery. Notwithstanding that decision, however, the Board has determined that it will first offer Holmdel Cemetery an opportunity to settle this matter, and thereby avoid the initiation of formal disciplinary proceedings, should Holmdel Cemetery consent to:

1. cease and desist from the aforesaid violations by incorporating into your Purchase Agreement a conspicuous notice to consumers who may elect to have their decedent's remains temporarily stored until their permanent crypt is available, that if such temporary storage lasts for more than four years, the consumer will be given the option to remove and inter the remains in another cemetery at the consumer's own expense, with a full refund of their purchase price and without charge from Holmdel Cemetery.
2. pay a penalty in the amount of \$10,000.00 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter) comprised of a penalty in the amount of \$100.00 for each violation of N.J.A.C. 13:44J-8.4(b) and \$2,500.00 for the violation of N.J.S.A. 45:1-21(b).
3. provide to any and all consumers who, prior to the availability of their crypt space lodge a complaint with either Holmdel Cemetery, the New Jersey Cemetery Board, or the Office of the Attorney General regarding the temporary storage of their decedent's remains for a period in excess of four (4) years, a full refund of their purchase price upon request provided that the consumers elect to remove and inter the remains in another cemetery at their own expense;
4. provide a full refund upon request to:
 - a. all consumers as to whom contractually Holmdel Cemetery failed to obtain, within five years (or seven years, if applicable contractually) of the signing of the contract with the consumers, any governmental, local or zoning approvals for the construction of any mausoleum in which the consumer purchased a crypt.
 - b. all consumers who can demonstrate to the Board, by a preponderance of the evidence (after giving counsel for Holmdel Cemetery the opportunity to examine any documentary evidence and cross-examine any witness), that material misrepresentations were made to the consumers by any employee, officer or agent of Holmdel Cemetery or its agents concerning the date of completion of the mausoleum in which the consumer purchased a crypt;
5. provide to the Board documentation of the establishment in a State or federally regulated financial institution

- having and maintaining a principal place of business in New Jersey, of an irrevocable Building Maintenance Fund of not less than 10% of its total cost, for each mausoleum, as required by N.J.S.A. 45:27-14(b); and
6. pay all costs of investigation of this matter in the amount of \$17,205.00 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter).

If you are willing to settle this matter with respect to all violations currently known to the Board on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event Holmdel Cemetery is unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, Holmdel Cemetery will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any charges against Holmdel Cemetery be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring Holmdel Cemetery to reimburse certain monies and/or requiring Holmdel Cemetery to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you have your attorney contact Deputy Attorney General John D. Hugelmeyer, who may be reached at (973) 693-5056.

If Holmdel Cemetery elects to settle this matter now, you should sign the acknowledgment at the bottom of this letter and return it to the Board within thirty (30) days following your receipt of this letter. In the event that the Board receives no response from you within thirty (30) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY CEMETERY BOARD

By: Dianne Tamaroglio
Dianne Tamaroglio
Executive Director

ACKNOWLEDGMENT: I, Bruce R. Phillips, President of Holmdel Cemetery, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter, and that I am authorized to act on behalf of Holmdel Cemetery with regard to the preliminary findings of the Board set out herein. I neither admit nor deny the conduct which has been charged. I am nevertheless aware that, by signing this acknowledgment, I am waiving any rights Holmdel Cemetery may have to defend itself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against Holmdel Cemetery by the Board herein is a matter of public record, and that this letter is a public document. Holmdel Cemetery hereby agrees to pay a penalty in the amount of \$10,000.00 plus costs of \$17,205.00 (to be paid upon signing of this acknowledgment), and to comply with all other requirements set forth in the settlement letter.

Dated: November 15, 2004

B. Bruce Phillips
Bruce R. Phillips, President
Holmdel Cemetery

cc: John D. Hugelmeyer, Deputy Attorney General
Wendell A. Smith, Esq., Attorney for Holmdel Cemetery

HOLMDEL CEMETERY COMPANY, INC.
OPERATING ACCOUNT
900 HOLMDEL ROAD
HOLMDEL, NJ 07733

55-1346-212

3052

DATE November 15, 2004

PAY TO THE
ORDER OF

New Jersey Cemetery Board

Twenty seven thousand two hundred five and 00/100 \$ 27,205.00---
DOLLARS



1250 HIGHWAY 35 SOUTH
MIDDLETOWN, NEW JERSEY 07746

Second Offer of Settlement

E. Bruce Phillips

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